

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE WASHINGTON SIMS, III

Defendant.

Case No.: 2:21-cr-00026-GMN-BNW-1

**ORDER**

Pending before the Court is Defendant George Washington Sims, III's ("Defendant's") Motion to Exclude Evidence, (ECF No. 42). The Government filed a Response, (ECF No. 48), and Defendant filed a Reply, (ECF No. 53).

Also pending before the Court is Defendant's Motion to Preclude Expert Testimony, (ECF No. 65). The Government filed a Response, (ECF No. 67), and Defendant filed a Reply, (ECF No. 72).

For the reasons discussed below, the Court **GRANTS in part and DENIES in part** Defendant's Motion to Exclude Evidence and **DENIES** Defendant's Motion to Preclude Expert Testimony.

**I. BACKGROUND**

On January 27, 2021, a federal grand jury sitting in the District of Nevada returned an Indictment charging defendant with six counts: three counts of Sex Trafficking of Children in violation of 18 U.S.C. § 1591(a) and (b)(2), two counts of Sexual Exploitation of Children in violation of 18 U.S.C. § 2251(a) and (e), and one count of Transportation of a Minor with Intent to Engage in Criminal Sexual Activity in violation of 18 U.S.C. § 2423(a). (Indictment, ECF No. 13). The charges arise out of Defendant's conduct with three minor victims, who are

referred to in the Indictment as Victim 1, Victim 2, and Victim 3 (collectively, “minor victims”). (*Id.*).

On March 22, 2021, the Government filed a Notice of Intent to admit evidence of Defendant’s other crimes, wrongs, and other acts either as inextricably intertwined evidence or pursuant to Federal Rule of Evidence (“FRE”) 404(b). (Govt.’s Notice Admit Evidence Def.’s Other Crimes (“Notice”), ECF No. 32). Specifically, the Government intends to admit evidence of Defendant’s prior sex-trafficking and attempted sex-trafficking conduct with testimony from two adult victims, referred to in the Notice as Victim 4 and Victim 5 (collectively, “adult victims”), who are not named in the indictment. (*Id.* 1:15–18). On May 20, 2021, the Government filed a Notice of Expert Testimony explaining that it will call Federal Bureau of Investigation Special Agent Carrie Landau, a sex-trafficking expert. (Notice Expert Test. (“Expert Notice”) 2:2–7, ECF No. 58).<sup>1</sup> Defendant now moves to exclude both the evidence of Defendant’s other acts and the expert testimony.

## **II. LEGAL STANDARD**

### **A. Motion in Limine**

In general, “[t]he court must decide any preliminary question about whether . . . evidence is admissible.” Fed. R. Evid. 104(a). In order to satisfy the burden of proof for Federal Rule of Evidence (“FRE”) 104(a), a party must show that the requirements for admissibility are met by a preponderance of the evidence. *See Bourjaily v. United States*, 483 U.S. 171, 175, 107 S. Ct. 2775, 97 L.Ed.2d 144 (1987) (“We have traditionally required that these matters [regarding admissibility determinations that hinge on preliminary factual questions] be established by a preponderance of proof.”).

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<sup>1</sup> The Government originally filed notice that the prosecution would call Las Vegas Metropolitan Police Department Sergeant Richard Leung as its sex-trafficking expert. (*See* Notice, ECF No. 36). However, in its May 20, 2021 Notice, the Government explained that Special Agent Landau would be substituted for Sergeant Leung as the sex-trafficking expert. (Notice 1:20–2:5, ECF No. 58).

1 “Although the [FRE] do not explicitly authorize in limine rulings, the practice has  
 2 developed pursuant to the district court’s inherent authority to manage the course of trials.”  
 3 *Luce v. United States*, 469 U.S. 38, 41 n.4, 105 S. Ct. 460, 83 L.Ed.2d 443 (1984) (citing FRE  
 4 103(c)). In limine rulings “are not binding on the trial judge, and the judge may always change  
 5 [her] mind during the course of a trial.” *Ohler v. United States*, 529 U.S. 753, 758 n.3, 120 S.  
 6 Ct. 1851, 146 L.Ed.2d 826 (2000); *see also Luce*, 469 U.S. at 41, 105 S. Ct. 460. Judges have  
 7 broad discretion when ruling on motions in limine. *See Jenkins v. Chrysler Motors Corp.*, 316  
 8 F.3d 663, 664 (7th Cir. 2002). However, a motion in limine should not be used to resolve  
 9 factual disputes or weigh evidence. *C&E Servs., Inc., v. Ashland, Inc.*, 539 F. Supp. 2d 316,  
 10 323 (D.D.C. 2008). To exclude evidence on a motion in limine, the evidence must be  
 11 inadmissible “on all potential grounds.” *See, e.g., Ind. Ins. Co. v. Gen. Elec. Co.*, 326 F. Supp.  
 12 2d 844, 846 (N.D. Ohio 2004). “Unless evidence meets this high standard, evidentiary rulings  
 13 should be deferred until trial so that questions of foundation, relevancy and potential prejudice  
 14 may be resolved in proper context.” *Hawthorne Partners v. AT&T Tech., Inc.*, 831 F. Supp.  
 15 1398, 1400 (N.D. Ill. 1993).

#### 16 **B. Federal Rule of Evidence 404(b)**

17 Under FRE 404(b), evidence of crimes, wrongs, or other acts is not admissible to prove  
 18 the character of an accused in order to show action in conformity with that character.  
 19 *Arambula-Ruiz*, 987 F.2d at 602; Fed. R. Evid. 404(b)(1). However, this evidence can be  
 20 admitted under FRE 404(b) if the evidence is used to show "proof of motive, opportunity,  
 21 intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Fed. R. Evid.  
 22 404(b)(2). In order to be properly admitted under FRE 404(b), evidence must satisfy four  
 23 requirements: “(1) it must prove a material element of the offense for which the defendant is  
 24 now charged; (2) in certain cases [where knowledge or intent are at issue], the prior conduct  
 25 must be similar to the charged conduct; (3) proof of the prior conduct must be based upon

1 sufficient evidence; and (4) the prior conduct must not be too remote in time.” *United States v.*  
 2 *Arambula-Ruiz*, 987 F.2d 599, 602 (9th Cir. 1993).

3 Nevertheless, the FRE 404(b) analysis is not required for “other acts” evidence if such  
 4 evidence is actually “inextricably intertwined” with the charged offense. *United States v.*  
 5 *Soliman*, 813 F.2d 277, 279 (9th Cir. 1987). Evidence is “inextricably intertwined” when it (1)  
 6 constitutes a portion of the transaction giving rise to the criminal charge; or (2) may be  
 7 necessary to allow the prosecution “to offer a coherent and comprehensible story regarding the  
 8 commission of the crime.” *United States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012 (9th Cir.  
 9 1995). Courts look to both temporal proximity and substantive similarity when determining that  
 10 evidence is inextricably intertwined. *See United States v. Rrapi*, 175 F.3d 742, 750 (9th Cir.  
 11 1999) (evidence of prior uncharged burglaries was “inextricably intertwined” with charged  
 12 crimes where uncharged burglaries were obtained during period of government surveillance,  
 13 involved similar pattern of conduct, and occurred close in time to charged crimes); *see United*  
 14 *States v. Beckman*, 298 F.3d 788, 794 (9th Cir. 2002) (finding that evidence regarding drug  
 15 mule’s prior drug run was necessary to show why mule was later entrusted with more than \$1  
 16 million worth of drugs).

### 17 **III. DISCUSSION**

#### 18 **A. Motion to Exclude Evidence of Other Crimes**

19 The Government intends to introduce evidence of Defendant’s purported sex-trafficking  
 20 conduct in relation to the adult victims. (Notice, 1:15–18, ECF No. 32). In February 2020, the  
 21 adult victims filed separate police reports against Defendant, claiming that he attempted to sex-  
 22 traffic them. (Resp. to Def’t.’s Mot. Exclude Evidence 2:13–16, ECF No. 48). Victim 4  
 23 reported that she was staying at Defendant’s house for a few weeks when he demanded that she  
 24 make \$500 by prostituting herself. (Victim 4 Interview, Ex. 1 to Notice, ECF No. 32-1). When  
 25 Victim 4 refused, Defendant punched, kicked, and yelled at her, eventually slamming her head

1 against the wall. (*Id.*). Victim 4 reported that Defendant “stripped” her, took all of her  
 2 belongings, and kept her at the house for several hours until she agreed to “turn tricks.” (*Id.*).  
 3 Victim 5 reported that she dated Defendant “on and off” for five years, but recently Defendant  
 4 began encouraging her to work for him as a prostitute. (Victim 5 Interview, Ex. 2 to Notice,  
 5 ECF No. 32-2). When Victim 5 refused and failed to bring him any money, Defendant became  
 6 physically violent, verbally abusive, broke her glasses, took her phone, and sent himself money  
 7 from her CashApp account. (*Id.*). The Las Vegas Metropolitan Police Department issued an  
 8 arrest warrant for Defendant based on Victim 4’s Report. (*Id.* 3:15–17). Defendant was  
 9 arrested pursuant to that warrant in California while he was allegedly trafficking Victim 1,  
 10 which provided the basis for Defendant’s Transportation of a Minor with Intent to Engage in  
 11 Criminal Sexual Activity charge. (*Id.* 9:5–7).<sup>2</sup>

12 The Government argues that evidence of Defendant’s other sex trafficking activities,  
 13 which would otherwise be inadmissible character evidence, is admissible as (1) inextricably  
 14 intertwined evidence or (2) pursuant to FRE 404(b). (Notice 1:15–18, ECF No. 32). Defendant  
 15 counters that this evidence is not admissible as either inextricably intertwined evidence or  
 16 under FRE 404(b). The Court will address each argument in turn.

17 *i. Inextricably Intertwined Evidence*

18 The Government claims that the adult victims’ testimony is inextricably intertwined with  
 19 the charged offenses because Defendant attempted to traffic the adult victims at the same time  
 20 as he allegedly trafficked the minor victims. (Resp. to Deft.’s Mot. Exclude Evidence 7:16–18).  
 21 The Government asserts that the adult victims will explain the circumstances surrounding the  
 22 charged offenses and the coercive environment in which the minor victims were living. (*Id.*

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23  
 24 <sup>2</sup> The Government explains that Defendant was eventually charged in state court for the offenses against the  
 25 adult victims. (Resp. to Deft.’s Mot. Exclude Evidence 5:20–6:8, ECF No. 48). He pleaded guilty to two counts  
 of conspiracy to commit a crime (gross misdemeanors) and was sentenced to 364 days in custody. (*Id.*). At the  
 conclusion of his state sentence, Defendant was transferred to federal custody, where he was indicted on the  
 current charges. (*Id.*).

1 8:7–21). The adult victims also personally observed some of the conduct perpetuated against  
2 the minor victims by Defendant. (*Id.* 7:18–19). Additionally, the Government claims that  
3 Victim 4’s testimony is inextricably intertwined evidence because “without explaining  
4 [Defendant’s] conduct related to Victim 4 and [Defendant’s] arrest . . . the jury will be left with  
5 a chronological and conceptual void in the investigation of [Defendant’s] conduct as it relates  
6 to [the minor victims].” (*Id.* 9:5–10).

7 In response, Defendant argues that mere temporal proximity between the adult and  
8 minor victims’ experiences does not create enough of a nexus with the charged conduct to  
9 support a finding of inextricably intertwined evidence. (Mot. Exclude Evidence 3:12–21, ECF  
10 No. 42). Defendant suggests that the adult victims may testify about their observations of  
11 Defendant’s conduct toward the minor victims, without explaining the details of the separate  
12 conduct perpetuated against them by Defendant. (*Id.* 3:15–21). For example, Defendant argues  
13 that the Government can simply explain that Victim 1 was present when Defendant was  
14 arrested in California on a warrant from a separate investigation, rather than divulging the link  
15 between Victim 4’s police report and the arrest. (*Id.* 4:6–16).

16 Here, while the Court acknowledges that evidence from adult victims concurrently  
17 prostituted by Defendant is intertwined with the charged offenses, the majority of it is not  
18 inextricably so. The only portion of the adult victims’ testimony admissible as inextricably  
19 intertwined is evidence explaining the adult victims’ relationship to Defendant and the minor  
20 victims. This is limited to short, foundational statements from the adult victims explaining  
21 either that they worked for Defendant as a prostitute or that Defendant attempted to recruit  
22 them to work for him as a prostitute. This evidence is necessary to provide the jury with a  
23 comprehensible story of the prosecution’s case because the adult victims are expected to testify  
24 about their observations of Defendant’s interactions with the minor victims. Therefore, it is  
25 necessary to disclose the adult victims’ relationship to Defendant because it will explain to the

1 jury how the adult victims have personal knowledge of the conduct perpetuated against the  
2 minor victims. *See United States v. Jackson*, No. 1:13-CR-246, 2014 WL 1631933, at \*2 (W.D.  
3 Mich. Apr. 23, 2014) (“[in a prosecution for sex-trafficking of children] evidence that [an adult  
4 witness] prostituted for Defendant might be inextricably intertwined with her testimony about  
5 recruiting the Minors, *or her eyewitness testimony* regarding the Minors.”) (emphasis added).

6 However, to the extent that the adult victims’ testimony will address the details of their  
7 personal relationships and interactions with Defendant, it is not inextricably intertwined with  
8 the charged conduct. This includes testimony concerning the events detailed in the adult  
9 victims’ respective police reports, such as Defendant’s verbally and physically abusive  
10 behavior towards them. The adult victims’ testimony is not necessary to create a  
11 comprehensible story of the charged offenses because the Defendant’s alleged conduct against  
12 the minor victims is separate from the conduct described by the adult victims in their police  
13 reports. *See, e.g., United States v. Jackson*, No. 1:13-CR-246, 2014 WL 1631933, at \*2 (W.D.  
14 Mich. Apr. 23, 2014) (evidence offered by adult victims trafficked by the defendant is not  
15 inextricably intertwined with the charge of sex trafficking of children); *United States v.*  
16 *Windley*, No. CR-10-660-2-PHX-DGC, 2012 WL 2813859, at \*6 (D. Ariz. July 10, 2012)  
17 (evidence of sex trafficking is not inextricably intertwined when “it does not appear necessary  
18 to present the testimony of these women in order for the government to present a  
19 comprehensible case”). *But see United States v. Washington*, 810 Fed. Appx. 478, 481 (8th Cir.  
20 2020) (evidence of defendant’s prior incidents of domestic assault is inextricably intertwined  
21 when the prosecution must show sex-trafficking *by force*) (emphasis added). Put differently,  
22 the jury will not be faced with a conceptual void if the adult victims do not testify about  
23 Defendant’s offenses against them because Defendant is not on trial for offenses against the  
24 adult victims; he is on trial for completely separate offenses against completely separate  
25 victims.

1 Similarly, the Court agrees with Defendant that the Government need not explain to the  
2 jury that Defendant's arrest warrant was based on Victim 4's police report. (*See* Mot. Exclude  
3 Evidence 4:6–16). The Government's story will still be comprehensible by merely explaining  
4 that Victim 1 was with Defendant in California when he was arrested on a warrant from a  
5 separate investigation. Accordingly, the adult victims' testimony is not inextricably intertwined  
6 with the charged offense, with the limited exception of explaining the basic relationship  
7 between the adult victims and Defendant.

8 *ii. FRE 404(b) Evidence*

9 Regardless of whether the adult victims' testimony is admissible as inextricably  
10 intertwined evidence, their testimony is admissible under FRE 404(b) to show motive,  
11 opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, and lack of  
12 accident regarding the charged conduct. In sex-trafficking cases, courts allow evidence of prior  
13 bad acts to demonstrate intent or knowledge, such as evidence of a defendant's prior pimping  
14 or attempted pimping activities. *See, e.g., United States v. Winters*, 729 F.2d 602, 604 (9th Cir.  
15 1984) (allowing evidence of prior similar acts of prostitution to establish defendant's modus  
16 operandi, motive, and intent); *United States v. Starks*, 17 Fed. Appx. 530, (9th Cir. 2001)  
17 (admitting prior evidence of pimping under FRE 404(b) to "prove that the defendant  
18 transported the minor with the specific intent that she engage in prostitution"); *United States v.*  
19 *Edwards*, No. CR 16-103-BLG-SPW-1, 2017 WL 4159365, at \*3 (D. Mont. Sept. 19, 2017)  
20 (citing *Winters*, 729 F.2d at 604) ("evidence of prior pimping and attempted pimping, as well as  
21 evidence that [the defendant] previously prostituted, or attempted to prostitute, a victim in a  
22 similar way is admissible Rule 404(b) evidence to show his knowledge that he was  
23 transporting victims for prostitution").

24 In the present case, the Government aims to offer the adult victims' testimony to show  
25 Defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of

1 mistake, and lack of accident. (Notice, 3:17–19). Therefore, the evidence will be admissible  
2 under FRE 404(b) if: (1) the testimony proves a material element of the offense for which the  
3 defendant is now charged; (2) the prior conduct is similar to the charged conduct; (3) proof of  
4 the prior conduct is based upon sufficient evidence; and (4) the prior conduct is not too remote  
5 in time. *See United States v. Arambula-Ruiz*, 987 F.2d 599, 602 (9th Cir. 1993). In the present  
6 case, all four of these factors are met. The conduct described by the adult victims is both  
7 similar to the charged conduct and not too remote in time, because Defendant was allegedly  
8 trafficking both the adult victims and the minor victims concurrently. Further, both intent and  
9 knowledge are implicated as elements in the charged offenses. *See, e.g.*, 18 U.S.C. § 2423(a)  
10 (“transportation [of a minor] with *intent* to engage in criminal sexual activity”); 18 U.S.C. §  
11 1591(a) (“whoever *knowingly* . . . recruits . . . a person . . .”). Finally, there is sufficient  
12 evidence of Defendant’s prior conduct because Defendant’s previous victims will be testifying  
13 to this conduct. *See United States v. Hinton*, 31 F.3d 817, 823 (9th Cir. 1994) (sufficient  
14 evidence exists when a witness testifies to the defendant’s prior bad acts). Accordingly, the  
15 adult victims’ testimony is admissible under FRE 404(b).

16 Defendant argues that the probative value of the adult victims’ testimony admitted under  
17 404(b) is “far outweighed by Rule 403 concerns.” (Mot. Exclude Evidence 5:13–14). To avoid  
18 any unfair prejudice to Defendant, the court will issue a limiting instruction to the jury that the  
19 adult victims’ similar acts testimony is admissible for the limited purpose of showing  
20 Defendant’s motive, opportunity, intent, preparation, plan, knowledge, identity, absence of  
21 mistake, and lack of accident. The Court will explain to the jury that the Defendant is only on  
22 trial for the conduct related to the minor victims as charged in the indictment, and that he is not  
23 on trial for the conduct articulated in the testimony of the adult victims.

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## B. Motion to Preclude Expert Testimony

The Government intends to offer the expert testimony of Special Agent Landau on the topics of “pimp culture,”<sup>3</sup> the pimp-prostitute relationship, and the general modus operandi of pimps to assist the jury in understanding the evidence in this case. (Expert Notice 2:2–11, ECF No. 58). Specifically, Special Agent Landau will testify about: (1) terminology used in sex trafficking subculture; (2) typical means sex traffickers use to target and recruit victims; (3) factors making victims more susceptible to influence by sex traffickers; (4) common ways sex traffickers use drugs, force, fraud, manipulation, and coercion to maintain control over victims; and (5) common dynamics between sex traffickers and their victims. (*Id.* 2:18–3:1).

Since 2003, Special Agent Landau has been investigating crimes against children with a focus in the domestic sex trafficking of minors. (*See* Landau CV, Ex. 1 to Resp. to Expert Notice, ECF No. 58-1). She has been involved in in 135 sex trafficking investigations, interviewed over 500 victims of sex trafficking, and interviewed approximately 75 sex traffickers. (*Id.*). Additionally, Special Agent Landau has received over 500 hours of training and instruction on the investigation of crimes against children and the sex trafficking of minors and adults, and herself is certified by the FBI’s Crimes Against Children Human Trafficking Unit to provide training regarding domestic minor sex trafficking and child abductions. (*Id.*).

Defendant opposes the introduction of Special Agent Landau’s expert testimony and argues that it should be precluded because Special Agent Landau’s testimony: (1) is not helpful, relevant, or reliable under FRE 702; (2) is not relevant under FRE 402; and (3) fails FRE 403 balancing. (*See generally*, Mot. Preclude Expert Test. (“Mot. Preclude”), ECF No. 65). The Court will address each argument in turn.<sup>4</sup>

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<sup>3</sup> Both parties use the term “pimp culture” to refer to the operations of sex-traffickers and their relationships with prostitutes. For the ease of reference, the Court adopts the same term.

<sup>4</sup> Defendant also argues that the Court should preclude Special Agent Landau’s expert testimony because the Government’s expert notice was deficient under FRE 16(a)(1)(G). (Mot. Preclude 20:5–21:13, ECF No. 65).

1                   *i. FRE 702*

2           Under Federal Rule of Evidence 702, an expert may testify if, among other  
3 requirements, “the expert’s scientific, technical, or other specialized knowledge will help the  
4 trier of fact to understand the evidence or to determine a fact in issue.” Fed. R. Evid. 702(a);  
5 *see also Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 589 (1993).

6           The Court must ensure that specialized evidence is relevant and reliable. *Daubert*, 509  
7 U.S. at 589.

8           Faced with a proffer of expert scientific testimony ... the trial judge must  
9 determine at the outset . . . whether the expert is proposing to testify to (1)  
10 scientific knowledge that (2) will assist the trier of fact to understand or  
11 determine a fact in issue. This entails a preliminary assessment of whether the  
12 reasoning or methodology underlying the testimony is scientifically valid and of  
whether that reasoning or methodology properly can be applied to the facts in  
issue.

13 *Id.* at 592–93 (footnote omitted). A judge has discretion under Rule 702 as a “gatekeeper to  
14 decide what evidence is relevant, reliable, and helpful the trier of fact.” *Desrosiers v. Flight*  
15 *Int’l of Fla. Inc.*, 156 F.3d 952, 961 (9th Cir. 1998). As gatekeepers, district court judges are to  
16 consider four nonexclusive factors to determine if the expert opinion is reliable and developed  
17 by the scientific method: 1) whether a theory or technique can be tested; 2) whether it has been  
18 subjected to peer review and publication; 3) the known or potential error rate; and 4) whether  
19 the theory or technique enjoys general acceptance within the relevant scientific community.”  
20  
21

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22 FRE 16(a)(1)(G) requires the Government to provide a “written summary” of expert testimony to the defendant  
23 including a description of “the witness’s opinions, the bases and reasons for those opinions, and the witness’s  
24 qualifications.” The Court finds that the expert notice here was adequate because the Government explained, in  
25 detail, Special Agent Landau’s qualifications and the opinions to be given, as well as established the basis of  
those opinions as her education, training, and experience investigating sex trafficking violations. (*See* Expert  
Notice 4:16–7:15, ECF No. 58); (Landau CV, Ex. 1 to Notice Expert Test., ECF No. 58-1). As explained below,  
any concerns Defendant has about the hypothetical questioning to be asked of Special Agent Landau will be  
resolved at calendar call, or at a subsequent reliability hearing, as necessary.

1 *Pyramid Techs., Inc. v. Hartford Cas. Ins. Co.*, 752 F.3d 807, 813 (9th Cir. 2014); *Cabrera v.*  
 2 *Cordis Corp.*, 134 F.3d 1418, 1420 (9th Cir. 1998) (quoting *Daubert*, 509 U.S. at 594).

3 In cases involving technical analysis, rather than scientific evidence, the reliability  
 4 inquiry should be “flexible,” since oftentimes *Daubert*’s four factors may not apply. *See Kumho*  
 5 *Tire Co. v. Carmichael*, 526 U.S. 137, 158 (1999). For example, “when evaluating specialized  
 6 or technical expert opinion testimony, ‘the relevant reliability concerns may focus on personal  
 7 knowledge or experience.’” *United States v. Sandoval-Mendoza*, 472 F.3d 645, 655 (9th Cir.  
 8 2006) (quoting *Kumho*, 526 U.S. at 150). Expert opinions are reliable when they have a  
 9 “reliable basis in the knowledge and experience of the relevant discipline.” *Id.* at 645.

10 *a. Relevance of Special Agent Landau’s Proposed Expert Testimony*

11 Defendant argues that Special Agent Landau’s testimony is neither relevant nor helpful  
 12 to the jury because “jurors can understand the pimp/prostitute relationship without expert  
 13 assistance.” (Mot. Preclude 8:3–4). However, in *United States v. Taylor*, the Ninth Circuit  
 14 found that “[b]y and large, the relationship between prostitutes and pimps is not the subject of  
 15 common knowledge.” 239 F.3d 994, 998 (9th Cir. 2001). As such, it is well settled in the Ninth  
 16 Circuit that expert testimony concerning pimp-prostitute subculture is admissible in cases  
 17 involving child sex trafficking. *See, e.g., United States v. Barnes*, No. 2:13-CR-423-JCM-  
 18 GWF, 2016 WL 1317724, at \*2 (D. Nev. Apr. 1, 2016) (citing *United States v. Brooks*, 610  
 19 F.3d 1186, 1196 (9th Cir. July 8, 2010) (finding that expert testimony from qualified detectives  
 20 on the pimp prostitute subculture is relevant to child sex-trafficking charges).

21 Because *Taylor* was decided in 2001, Defendant asks the Court to reevaluate whether  
 22 the relationship between pimps and prostitutes is common knowledge, since pimp culture  
 23 regularly appears in popular culture mediums, such as songs, video games, documentaries, and  
 24 journalistic articles. (See Mot. Preclude 8:5–11:3) (citing “It’s Hard Out There for a Pimp” by  
 25 Three 6 Mafia, “P.I.M.P.” by 50 Cent, Grand Theft Auto: San Andreas, among other things).

1 Defendant argues that “given the prevalence of pimp culture in popular culture and  
2 advancements in information sharing, today’s average juror has a basic understanding of how  
3 pimps and prostitutes work, rendering [Special Agent] Landau’s testimony unhelpful.” (*Id.*  
4 11:4–6).

5 After a review of the various popular culture materials provided by Defendant, the Court  
6 agrees that depictions of pimp culture are widely available to the public. However, assuming,  
7 *arguendo*, that media surrounding pimp culture brings the subject within the knowledge of the  
8 public, the Court is unconvinced that these references do little more than glamorize and abridge  
9 pimp culture, rather than address the reality of the intricate, coercive, and often abusive,  
10 dynamics of the complex pimp-prostitute relationship. As Curtis Jackson, a.k.a. “50 Cent,”  
11 explains in the hit song P.I.M.P., pimp culture is “not what you see on TV.” *See* 50 Cent,  
12 P.I.M.P. (2003). At best, potential jurors maintain only a surface-level understanding of pimp  
13 culture, and therefore, “the relationship between prostitutes and pimps is not the subject of  
14 common knowledge.” *Taylor*, 239 F.3d at 998. Accordingly, Special Agent Landau’s  
15 testimony is both relevant and helpful to assist the jury in understanding the evidence in this  
16 case.

17 *b. Reliability of Special Agent Landau’s Proposed Expert Testimony*

18 As an initial matter, the Court finds that Agent Landau is sufficiently qualified to give  
19 expert testimony on child sex trafficking and pimp-prostitute dynamics because she has  
20 conducted 135 sex trafficking investigations over a seventeen-year career, interviewed  
21 hundreds of victims and traffickers, and participated in numerous trainings, both as a student  
22 and as an instructor. *See United States v. Brooks*, 610 F.3d 1186, 1195–96 (9th Cir. 2010)  
23 (affirming the admission of expert testimony on the business of prostitution and pimp-prostitute  
24 relationships from an officer with eight years of experience who had only conducted twenty-  
25 five investigations and fifty interviews).

1           Regarding the reliability of Special Agent Landau’s testimony, the analysis will center  
2 on her personal knowledge and experiences, because the testimony is based on technical  
3 knowledge, rather than scientific evidence. *See Sandoval-Mendoza*, 472 F.3d at 655 (quoting  
4 *Kumho*, 526 U.S. at 150). The Government alleges that Agent Landau’s testimony is reliable  
5 because of her knowledge, experience, training, and education. (Resp. to Mot. Preclude 17:14–  
6 16). Defendant argues that the Government has not satisfied its burden to establish Special  
7 Agent Landau’s reliability because, under *United States v. Valencia-Lopez*, a district court may  
8 not rely on a potential expert’s general qualifications to establish the reliability of their  
9 testimony. (Mot. Preclude 13:17–15:20).

10           In *Valencia-Lopez*, a truck driver transporting peppers from Mexico to the United States  
11 was stopped at the border, and border agents discovered marijuana amongst the peppers. 971  
12 F.3d 891, 894–95 (9th Cir. 2020). The truck driver claimed duress, explaining that gunmen  
13 confiscated his truck for several hours and then retuned it, forcing him to drive the truck across  
14 the border under threat of death. *Id.* In anticipation of the duress defense, the government  
15 offered testimony from a Homeland Security Investigations agent as an “expert on the issue of  
16 drug trafficking cartels’ operations and methodology.” *Id.* at 896–97. The agent testified that  
17 the probability of a drug trafficking organization entrusting large quantities of illegal drugs to  
18 the driver of a commercial vehicle who has been coerced to comply was “almost nil, almost  
19 none.” *Id.* at 897. The Ninth Circuit held that, although the agent qualified as an expert witness  
20 based on his experience and knowledge, his qualifications alone could not establish the  
21 reliability of his ‘almost nil’ conclusion. *Id.* at 900. To demonstrate reliability, the agent  
22 needed to explain how his general expertise lent itself to the ‘almost nil’ conclusion. *Id.*<sup>5</sup>

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23  
24 <sup>5</sup> In its *Valencia-Lopez* decision, the Ninth Circuit also relied on *United States v. Hermanek*, where the  
25 government offered an expert witness to interpret words commonly used in the drug trade. 289 F.3d 1076, 1093  
(9th Cir. 2002). However, when the expert was asked to interpret words with which he was not previously  
familiar, the Ninth Circuit determined that his general qualifications and knowledge of drug trafficking  
terminology alone did not create a reliable basis for testimony on interpretations of new words and phrases. *Id.*

1 The present case is distinguishable from the specialized circumstance considered in  
 2 *Valencia-Lopez*. In *Valencia-Lopez*, the agent’s testimony went beyond generalized opinions  
 3 that he could reliably give about drug cartels’ modus operandi. *See Valencia-Lopez*, 971 F.3d at  
 4 900 (“It is one thing for a witness with Agent Hall’s expertise to testify as to the risks to a cartel  
 5 of using a coerced carrier. But that is a far cry from him essentially testifying that the cartel  
 6 never does it.”).<sup>6</sup> Instead, the agent fashioned a new conclusion, not previously noticed to the  
 7 court or the opposing party, based on particular facts that could be specifically applied to the  
 8 case at bar. *Id.* Here, as evidence by the Government’s expert notice, Special Agent Landau  
 9 will offer only general testimony about pimp culture, the pimp-prostitute relationship, and the  
 10 general modus operandi of pimps. Accordingly, the Court finds that her extensive experience  
 11 conducting investigations into the sex-trafficking of children, including her personal interviews  
 12 with victims and sex-traffickers, provide a reliable basis for this testimony. *See United States v.*  
 13 *King*, 703 F. Supp. 2d 1063, 1072 (D. Haw. Mar. 17, 2010) (citing *United States v. Lopez-*  
 14 *Martinez*, 543 F.3d, 515 (9th Cir. 2008) (“experience and training can provide a reliable basis  
 15 for an expert’s opinions”).

16 However, if the Government intends for Special Agent Landau to render conclusions  
 17 beyond those evidenced by the expert notice that could be construed as particular to the facts of  
 18 this case, such as through hypothetical questions, the Court expects the Government to explain

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19  
 20 (“the district court [erroneously] relied solely on [the expert’s] qualifications without requiring the government  
 21 to explain the method [the expert] used to arrive at his interpretations of words he had never heard before.”).  
 22 The Ninth Circuit requires “a link between [the expert’s] knowledge and the particular matter he interpreted.” *Id.*  
 23 at 1095. However, *Hermanek* is also distinguishable from the one at hand. At present, it does not appear that  
 24 Special Agent Landau will be providing interpretations of new words, phrases, or scenarios, that she was  
 25 previously unfamiliar with.

<sup>6</sup> The Ninth Circuit continued: “The issue is not whether [the agent] had knowledge and experience sufficient to  
 allow him to testify as an expert on the modus operandi of drug cartels. He did. Nor is the issue whether he had  
 sufficient ‘background for his opinions.’ Rather, the issue is whether he provided a reliable basis for his opinion  
 that the likelihood of drug cartels using coerced couriers is ‘[a]lmost nil, almost none.’” *United States v.*  
*Valencia-Lopez*, 971 F.3d 891, 901 (9th Cir. 2020).

1 them at calendar call. If further conclusions will be offered, the Court will set a pre-trial  
2 *Daubert* hearing, as necessary, to ensure that the expert's conclusions are reliable.

3           ii.       *FRE 402*

4           “Irrelevant evidence is not admissible.” Fed. R. Evid. 402. “Evidence is relevant if: (a)  
5 it has any tendency to make a fact more or less probable than it would be without evidence; and  
6 (b) the fact is of consequence in determining the action.” Fed. R. Evid. 401; *Velazquez v. City*  
7 *of Long Beach*, 739 F.3d 1010, 1028 (9th Cir. 2015). As determined above, the evidence to be  
8 proffered by Special Agent Landau is relevant, and thus is not excludable under FRE 402. *See,*  
9 *e.g., Barnes*, 2016 WL 1317724, at \*2 (finding that expert testimony from qualified detectives  
10 on the pimp-prostitute subculture is relevant to child sex-trafficking charges).

11           iii.       *FRE 403*

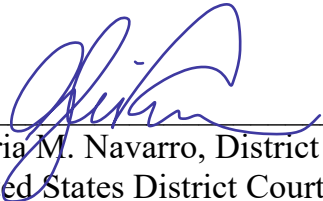
12           “The court may exclude relevant evidence if its probative value is substantially  
13 outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues,  
14 misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”  
15 Fed. R. Evid. 403. Defendant claims that Special Agent Landau's testimony should be  
16 excluded because it will confuse the issues in the case by shifting the focus to the “evils of  
17 pimping,” rather than the particular facts of the case, which will inflame the passions of the  
18 jury. (Mot. Preclude 19:19–20:4). However, as the Government explains, any prejudicial effect  
19 from Special Agent Landau's testimony does not outweigh its probative value because her  
20 testimony directly impacts the jury's ability to evaluate the evidence by providing contextual  
21 knowledge of pimp culture and the relationship between pimps and prostitutes. Further, the  
22 Government explains that Special Agent Landau will not offer any opinion testimony about the  
23 victims, Defendant, or “the particular facts in this case.” (Expert Notice 7:16–22); (Resp. to  
24 Mot. Preclude 22:5–8). Accordingly, the Court finds that the prejudicial effect of Special Agent  
25 Landau's testimony does not outweigh its probative value.

1 **IV. CONCLUSION**

2 **IT IS HEREBY ORDERED** that Defendant's Motion to Exclude Evidence, (ECF No.  
3 42), is **GRANTED in part and DENIED in part.**<sup>7</sup>

4 **IT IS FURTHER ORDERED** that Defendant's Motion to Preclude Expert Testimony,  
5 (ECF No. 65), is **DENIED.**

6 **DATED** this 23 day of July, 2021.

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10 Gloria M. Navarro, District Judge  
11 United States District Court  
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25 <sup>7</sup> Defendant's Motion is granted to the extent that the majority of the adult victims' testimony is not admissible as inextricably intertwined evidence, except for limited testimony concerning the relationship between the adult victims and Defendant. Defendant's Motion is denied to the extent that the adult victims' testimony is admissible under FRE 404(b).